

Honolulu, Hawaii

APR 03 2019

RE: H.B. No. 711  
H.D. 1  
S.D. 1

Honorable Ronald D. Kouchi  
President of the Senate  
Thirtieth State Legislature  
Regular Session of 2019  
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred H.B. No. 711, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO CRIMINAL DEFENSE,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Amend the affirmative defense of extreme mental or emotional disturbance to murder or attempted murder by prohibiting explanations based solely on the defendant's discovery, knowledge, or disclosure of the victim's gender, gender identity or expression, or sexual orientation; and
- (2) Require the court to instruct the jury to disregard bias and prejudice if a defendant's explanation includes the discovery of a victim's gender, gender identity or expression, or sexual orientation.

Your Committee received testimony in support of this measure from the Hawai'i Civil Rights Commission, Office of the Prosecuting Attorney of the County of Kaua'i, Honolulu Police Department, LGBT Caucus of the Democratic Party Hawai'i, Planned Parenthood Votes Northwest and Hawaii, Pride at Work Hawaii, Rainbow Family 808,



and twenty-four individuals. Your Committee received testimony in opposition to this measure from the Office of the Public Defender.

Your Committee finds that gay or trans panic defenses are uniquely used to justify crime against LGBTQ+ individuals and are based on exploiting homophobic bias in factfinders. Your Committee further finds that bans on gay or trans panic defenses have been implemented in California, Illinois, and Rhode Island. Your Committee additionally finds that homicide or assault of a person because of that person's sexual orientation or gender identity should not be a criminal defense.

Your Committee has amended this measure by:

- (1) Making it effective upon its approval; and
- (2) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 711, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 711, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on  
behalf of the members of the  
Committee on Judiciary,



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KARL RHOADS, Chair



The Senate  
Thirtieth Legislature  
State of Hawai'i

**Record of Votes**  
**Committee on Judiciary**  
**JDC**

Bill / Resolution No.:* <b>HB 711 HD1</b>	Committee Referral: <b>JDC</b>	Date: <b>3/14/19</b>		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <div style="display: flex; justify-content: space-between;"> <span><input type="checkbox"/> Pass, unamended 2312</span> <span><input checked="" type="checkbox"/> Pass, with amendments 2311</span> <span><input type="checkbox"/> Hold 2310</span> <span><input type="checkbox"/> Recommit 2313</span> </div>				
<b>Members</b>	<b>Aye</b>	<b>Aye (WR)</b>	<b>Nay</b>	<b>Excused</b>
RHOADS, Karl (C)	✓			
WAKAI, Glenn (VC)	✓			
GABBARD, Mike	✓			
KIM, Donna Mercado	✓			
FEVELLA, Kurt				✓
<b>TOTAL</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>1</b>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: _____				
<b>Distribution:</b> <div style="display: flex; justify-content: space-around; font-size: small;"> <span>Original File with Committee Report</span> <span>Yellow Clerk's Office</span> <span>Pink Drafting Agency</span> <span>Goldenrod Committee File Copy</span> </div>				

**\*Only one measure per Record of Votes**